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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/400,764 09/21/99 MOULSLEY

T PHB-34.288

EXAMINER

WM01/0918

CORPORATE PATENT COUNSEL
US PHILIPS CORPORATION
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TARRYTOWN NY 10591

TRAN. T	
ART UNIT	PAPER NUMBER

2684
DATE MAILED:

09/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/400,764

Applicant(s)

MOULSLEY, TIMOTHY J.

Examiner

Tuan A Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (5,713,074).

Regarding claims 1-5, Hulbert discloses a mobile radio system, particularly in the CDMA system wherein traffic information is transferred in unit over a wireless digital communication link between a transmitting station and a receiving station that comprises the steps of transmitting first information units which are data frames at a first power level, monitoring by the transmitting station based on information provided by the receiving station if correct reception of transmitted units occurred, and transmitting the second information units which also are data frames at a second power level which is greater than the first power station (See fig. 2, col. 1 lines 5-20, and col. 2 line 45 to col. 4 line 18). However, Hulbert does not mention that the content of the second information units is the same as the content of the first information units, and the first power level is selected to be the lowest one corresponding to a maximum allowable

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probability of failed first information units transmission. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the system as disclosed by Hulbert modified such that the content of second information units is the same as the first one in order to allow the receiving station to receive properly data. Also, the first power level is selected to be the lowest level for the advantage of saving power because the battery power at the mobile unit is a limited resource and needs to be conserved. In addition, all transmitters have minimum and maximum power levels at which they can transmit signals that means it is not necessary to start at the greater level than the minimum.

Claims 6-11 are rejected for the same reasons as set forth in claims 1-4, as apparatus.

2. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (5,713,074) in view of Agrawal et al. (5,722,051).

Regarding claims 12-13, Hulbert discloses as cited in claims 6-7. However, Hulbert does not mention that the first power level is selected to control the average power consumption at the transmitter at minimum average power consumption taking into account the first and second power levels for the consequent probability of transmission of second information unit. Agrawal discloses a mobile radio system that comprises means of selecting the first power level to minimize the power used in transmitting (See fig. 1 and col. 5, lines 16-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have

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the system as disclosed by Hulbert modified by Agrawal for the advantage of conserving the limited power resource at the mobile unit.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Saario U.S. Patent 6,272,354 discloses a method for adjusting transmit power during call set-up, and a cellular radio system.

b. Vembu U.S. Patent 6,259,928 discloses a system and method for optimized power control.

c. Kamel et al. U.S. Patent 6,285,886 discloses a method for controlling power for a communication system having multiple traffic channels per subscriber.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Daniel Hunter**, can be reached at **(703) 308-6732**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



DANIEL HUNTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600